

EXHIBIT 1

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1 F. Christopher Austin, Esq.
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6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 LHF PRODUCTIONS, INC., a Nevada
Corporation,

10 Plaintiff,

11 v.

12 BRIAN KABALA, et. al.,

13 Defendants.

14 AND RELATED COUNTERCLAIMS
15

Case No.: 2:16-cv-02028-JAD-NJK

**DECLARATION OF F. CHRISTOPHER
AUSTIN IN SUPPORT OF LHF'S
MOTION FOR ATTORNEY FEES AND
COSTS PURSUANT TO NRS § 41.670
(ANTI-SLAPP)**

16 I, F. Christopher Austin, hereby declare as follows:

17 1. I am former counsel for Plaintiff/Counter-Defendant LHF Productions, Inc.,
18 ("Plaintiff or LHF") in the above captioned matter. I am over the age of 21, under no disability,
19 and am competent to testify to the matters contained in this declaration. I make this declaration
20 in support of LHF's motion for fees and costs pursuant to Nevada's Anti-SLAPP statute, Nev.
21 Rev. Stat. § 41.670, incurred in connection in defending against Plaintiffs' now-dismissed claim
22 for abuse of process (the "Motion").

23 2. I am a partner at Weide & Miller, Ltd. ("Weide & Miller"), counsel for LHF. I am
24 licensed to practice law in all of the Courts of the State of Nevada and have been practicing for
25 over twenty (20) years litigating primarily commercial disputes regarding intellectual property. I
26 obtained my BA in Humanities and Korean and my JD from Brigham Young University.

27 3. As judged by his peers and clients, I have consistently been rated as a lawyer in
28 good standing and of an excellent reputation for providing quality representation to his clients. I

1 have been lead trial counsel in nearly 30 trials, with over half of those presented to a jury.

2 4. I commenced my legal practice as a judge advocate for the United States Air Force
3 where I was competitively awarded the position of Chief Prosecutor and later Area Defense
4 Counsel at the Air Force's premier Nellis AFB installation.

5 5. Upon leaving the Air Force, I had consistently worked as trial counsel for some of
6 the most prestigious firms in the nation as well as the state, including Greenberg Traurig, Kolesar
7 & Latham, and Hale and Lane (now Holland & Hart). I have good standing in the community
8 and a reputation for providing quality representation to my clients.

9 6. I currently head the litigation practice as an equity partner at Weide & Miller, a
10 Tier 1 rated law firm ranked by U.S. News & World Report, where my ordinary billing rate is
11 \$360.00 per hour. This rate is consistent with, and, in fact, well below prevailing market rates in
12 the Las Vegas community for someone with similar qualifications and expertise.

13 7. Although I have not been prevented from accepting other work in order to
14 represent LHF in this matter, the contentious nature of the discovery permitted in this case during
15 the pendency of LHF's anti-SLAPP motion did impact my availability to other clients. The time
16 limitations imposed were consistent with those imposed in litigation matters in which discover is
17 proceeding.

18 8. The fees charged in this matter are consistent with fees customarily charged by the
19 firm. I billed my time on this matter at my standard hourly billing rate of \$360.¹ This is well
20 within the prevailing market hourly rates in this forum which range to \$450 for partners and \$250
21 for experienced associates.² In order to maximize cost efficiency, I delegated some responsibilities
22 for actions that a less experienced and lower hourly-rate attorney could perform and coordinated
23 with LHF to have much of the research and initial drafting of the anti-SLAPP motion and
24 discovery ground work performed by LHF's retained counsel who closely worked under my
25 guidance and instruction of Mr. Ryan Gile, significantly maximizing the cost efficiency of Mr.

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27 ¹ *Id.*

28 ² *See Perrigo v. Premium Asset Servs., LLC*, No. 2:14-CV-1052 GMN-PAL, 2015 WL 4597569, at *10 (D. Nev. July 28, 2015).

1 the firm in this matter.

2 9. I provided the overall litigation strategy, reviews, and editing for the motion and
3 made the ultimate decisions on the actions taken in response to the discovery propounded by
4 Kabala on the abuse of process counterclaim.

5 10. Ryan Gile, was co-litigation counsel on this matter for the filing of the anti-SLAPP
6 motion and much of the discovery involved. Mr. Gile is a graduate of Duke Law School who has
7 over ten (10) years of experience litigating civil disputes, primarily those focused on intellectual
8 property infringement and related claims. His billing rate at all times relevant to this case was
9 \$320 per hour, which, as discussed above is consistent with, and, in fact is, below prevailing
10 market rates in the Las Vegas community for someone of similar qualifications and experience.

11 11. Mr. Gile was a partner at Weide & Miller and left the firm on April 13, 2018, to
12 start his own solo legal practice under the name Gile Law Group. He continues representing
13 clients in various intellectual property matters, including trademarks, copyrights, and related
14 litigation.

15 12. The fees generated and represented on the Billing History were either the actual
16 time spent, or a reduction of such time based on my billing judgment. Such billing was reasonably
17 and necessarily incurred in the bringing of the anti-SLAPP motion and in responding to discovery
18 on the abuse of process claims dismissed by that motion. These billing entries were
19 contemporaneously entered as the tasks were performed.

20 13. Attached to the Motion as Exhibit 3 is a true and correct copy of the history billing
21 report reflecting the time entries that were actually, and necessarily, billed to Defendants in this
22 matter related to the filing of the anti-SLAPP motion and the discovery on Defendant's abuse of
23 process claim. Billing unrelated to those relevant to the Motion for fees and costs have not been
24 included in this report.

25 14. I am familiar with Weide & Miller's work and billing practices. Except as
26 otherwise indicated, all of the facts set forth in this Declaration are based upon my personal
27 knowledge of Weide & Miller's operations and finances, information learned from my review of
28 relevant documents, and information supplied to me by other employees of the firm. If called

1 upon to testify as to the content of this Declaration, I could and would do so competently.

2 I declare under penalty of perjury of the laws of the State of Nevada, that the foregoing is
3 true and correct.

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5 DATED this 5th day of October 2018.

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7 /s/ F. Christopher Austin
8 F. Christopher Austin, Esq.
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